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P.01/04

CONSIGLI CONSTRUCTION CO., INC.

FAX
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FACSIMILE TRANSMITTAL SHEET

TO:

FROM:

Mr. Frank M. Kennedy

Anthony Consigli

COMPANY

DATE:

Heery International, Inc.

2/26/2003

FAX NUMBER

TOTAL NO. OF PAGES INCLUDING COVER:

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PHONE NUMBER:

SENDER'S REFERENCE NUMBER:

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RE:

YOUR REFERENCE NUMBER:

URGENT:

☐ FOR REVIEW☐ PLEASE COMMENT☐ PLEASE REPLY☐ PLEASE RECYCLE

Notes/Comments

Please see attached letter.

EXHIBIT

A

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CONSIGLI CONSTRUCTION CO. INC.
Est. 1905

Jill C. Dagillis
Commissioner
City of Worcester
Department of Code Enforcement
25 Meade Street
Worcester, MA 01610

Dear Commissioner Dagillas:

We are writing on behalf of Consigli/O'Connor as the apparent second low bidder on the Worcester Vocational School Project.

Subsequent to bid time, we have reviewed Eastern Contractors' apparent low bid and have researched their capabilities to perform the project. In reviewing the bids and making your final decision, we ask that you consider the following:

1. **DCAM Update Statement:** Prior to the Worcester Voke bid, Eastern was recently the low bidder on the \$50 million Algonquin School Project in Northborough. We recommend that you review their DCAM Update Statement to confirm that they have listed this project against their DCAM limits as well as properly reported their costs to complete on other projects. Failure to do so is misleading and deceptive and may be grounds for rejection alone.
2. **Inability to Properly Staff the Project:** Eastern's current workload has limited their ability to properly staff their projects. A specific example is the Medway High School Project, where there has reportedly been a lot of staff turnover to the detriment of the project. With the addition of Worcester Voke to their workload it is unlikely that they can staff the project properly. We recommend that you review their proposed personnel information to ensure that they are in fact available and qualified to administer a project of this complexity. Furthermore, with the inclusion of Algonquin, adequate staffing is even more unlikely. Eastern is known to hire for projects as they acquire them. We expect that they have either proposed the same team for both the Algonquin and Worcester Voke projects or they will be hiring unfamiliar and untested staff for the project. If so, they have misled the City of Worcester into believing that they are capable of performing the project as bid.

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3. **Litigious Patterns and Behavior:** Eastern is notorious industry wide for being involved in numerous lawsuits, claims and projects that are behind schedule. The Medway project and the Framingham High School Project are specific current examples of claim ridden projects that are behind schedule. The City of Worcester knows first hand of their litigious patterns, having recently been involved in an Eastern lawsuit during the Quinsigamond School Project. We also know first hand of their deficiencies, as we have been called in to potentially take over their work for the Lakeville School District where they have failed to complete the work.
4. **HVAC Rejection:** Their Filed Sub Bid to perform the HVAC work should be rejected. As identified on their bid form, Eastern has not performed an HVAC project where they have also been the General Contractor for any HVAC project in excess of \$2.2M. Their current bid for the HVAC work at Worcester Voke is \$7.7M. They have not proven they can perform HVAC work even remotely comparable to the work of this project, especially when they are also focused on performing the work of the General Contractor. This scenario as it stands could severely jeopardize the Worcester Voke project quality and schedule. KMD Mechanical, the second low HVAC Filed Sub Bidder, shares our concerns, as they have filed a protest against Eastern's HVAC bid with the Attorney General. The mechanical system for a school building housing children should not be a test case for Eastern's HVAC capabilities.
5. **Sitework Issues:** The sitework on the Voke project is of the utmost importance to the overall success of the job. On prior projects, Eastern has estimated the cost of this work at a very low price at bid time, only to find out later that they could not perform the work for the price they carried. This leads to them seeking additional money from the Owner and hiring unqualified subcontractors, or attempting to self-perform the work at an unreasonably low price and with unqualified personnel. This is the recipe for claims, schedule delays and poor quality. We believe that the discrepancy between Eastern's bid price and the other bidders is in a large part on their inability to accurately price and perform sitework.

The city has to ask themselves if the \$1.3 million difference between the Eastern and Consigli/O'Connor bids will have been a good value four years from now, after change orders, claims, schedule delays, legal challenges, quality issues, never ending punch lists, hassles, and the negative publicity which stems from all of the performance issues with a typical Eastern project. The low bid at bid time is not necessarily the lowest cost at the completion of the project, and it definitely is not necessarily the best value.

Eastern Construction has a poor reputation in the public school construction market. Eastern has a reputation for continually under-bidding projects, hiring for the job, and surviving on the cash flow rather than the merits of each job. The problem with this "roulette" methodology is that when the music stops, and it will stop, the municipalities with Eastern on its projects will be left to deal with the costly fall out. The city has the

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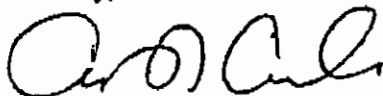
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opportunity to make a strong statement for all municipalities stuck with our state's cumbersome procurement system, and say that it is not continually acceptable for a contractor to over-commit and under-perform; that contractors need to take heed of qualifications and working relationships rather than continual reliance solely on low bids with the intent of getting the difference back in other ways; that you cannot sue a municipality and its agents, completely disregard all tenants of team-work and ethics, and then expect to get their next project. The city has the ability to reject Eastern's low bid as it is not in the best interest for the city to accept it and deal with the problems their involvement will bring. Taking the low bid for the sake of the money is a gamble at best.

The Worcester Vocational School is a high profile, highly visible project within the city and region. It is not an ordinary municipal school building project. The city and its agents have to ask who they want on their team for the next three years, in whose hands do they want to leave this project, and which contractor would provide the best overall value at the end of the day?

Sincerely,



Anthony Consigli
President

AMC:mmm

cc: Herry International
Lamoreux - Pagano Architects
Rick Trifero - City of Worcester

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